

REMARKS

Claims 1, 7-9, 14-16, 20, 22, 24, 25, 27, 33-35, 40, 45, 47, 49, 50, 52, and 55 are pending in the present application. By this Response, independent claims 1, 20, 27, 45, and 52 are amended for clarification to recite “comparing the calculated score and a previously calculated score for a previous comparison of a previous actual value to the target value, the previously calculated score being calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better, worse, or is unchanged.” No new matter has been added by the above amendments to the claims. Reconsideration of the claims is respectfully requested in view of the following remarks.

I. Telephone Interview

Applicants’ representative contacted the Examiner to conduct a telephone interview prior to the response due date of the Office Action. However, a telephone interview was not able to be conducted prior to the response due date. Therefore, Applicants respectfully request that the Examiner contact Applicants’ representative to discuss this application prior to taking any further action on this case.

II. Certified Copy of Priority Document

In the Final Office Action dated October 2, 2008, the Examiner indicated that a certified copy of the priority document had not been received by the USPTO. In response, Applicants filed a certified copy of the foreign priority document, CA 2,412,747, on May 13, 2009. Applicants received the stamped copy of the postcard indicating receipt of the certified copy by the USPTO. However, the certified copy is not viewable in PAIR. Instead, there is an “Artifact Sheet” with the document description “an item has been filed which cannot be scanned.” According to a phone conversation with the OIPE on June 5, 2009, the certified copy may have been bound and therefore, the USPTO was unable to take apart and scan the document. The document would have

been placed in an “Artifact” folder that is available to the Examiner if the Examiner would like to order the folder to view any documents contained therein. Applicants respectfully request that, in the next communication from the USPTO, an indication is given that the certified copy of the priority document has been received.

III. Rejection under 35 U.S.C. § 103(a) Based on Thompson and Sands

The Office Action rejects claims 1, 7-9, 20, 27, 33-35, 45, and 52 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Thompson et al. (U.S. Patent No. 6,668,253) in view of Sands (WO 01/88769). This rejection is respectfully traversed.

Independent claim 1, which is representative of the other rejected independent claims 20, 27, 45 and 52 with regard to similarly recited subject matter, reads as follows:

1. A performance monitoring system comprising:
 - a staging area receiving data from one or more data sources;
 - a KPI store storing performance information relating to Key Performance Indicators (KPIs);
 - a loader transforming the received data into the performance information relating to the KPIs, calculating scores based on the received data and the performance information stored in the KPI store to indicate changes in the KPIs such that the scores indicate if associated KPIs are getting better, worse, or is unchanged, and loading the performance information including the scores into the KPI store; and
 - an information presentation unit presenting the performance information to a user, wherein the information presentation unit has a front-end interface having a data guided monitoring function that receives a user input and presents relevant performance information in a selected order based on the user input to allow the user to monitor and analyze the performance information using the scores, wherein the staging area receives a target value and an actual value for a KPI, and ***wherein the loader calculates a score for the KPI based on the actual value and the target value to indicate if the KPI is good, bad or neutral compared to the target value, and calculates another score by comparing the calculated score and a previously calculated score for a previous comparison of a previous actual value to the target value, the previously calculated score being calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better, worse, or is unchanged.***
- (emphasis added)

Applicants respectfully submit that neither Thompson nor Sands, either alone or in combination, teaches or renders obvious at least those features of claim 1, and the similar features in the other independent claims, emphasized above.

The Office Action admits that Thompson does not teach these features (see Office Action, pages 4-5) but alleges that Sands teaches these features. Thus, the issue is whether Sands teaches or makes these features obvious in view of Thompson. Applicants respectfully submit that Sands does not.

Sands is directed to a mechanism for monitoring the performance of a business by calculating actual output values and budgeted output values for measured input values at a unit, component, or sub-component level. The budgeted output values are determined from key performance indicators using suitable models for the specific activity. Values are converted to a common unit system, e.g., dollars. A deviation between the actual output value and the budgeted output value is calculated, stored, and summed at each level. The total deviation across the business is compared to a threshold. If the total deviation is unacceptable, the stored data is mined to identify the source of the variation.

Thus, Sands is concerned with a particular point in time, i.e. at this particular time, the deviation between the actual output value and the budgeted output value is X, the total of the deviations for the entire business is Y, and Y is greater than a threshold Z so data mining is performed to identify a source of the variation. Sands is not concerned at all regarding whether there is a trend of a key performance indicator (KPI) getting better, worse, or not changing, let alone calculating such a trend based on scores in the manner recited in the independent claims. That is, nowhere in Sands is there any teaching, or even technical rationale, provided for implementing in Sands the features of a loader calculating a score for a KPI based on the actual value and the target value to indicate if the KPI is good, bad or neutral compared to the target value, ***and comparing the calculated score and a previously calculated score for a previous comparison of a previous actual value to the target value, the previously calculated score being calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better, worse, or is unchanged.*** To the contrary, as stated above, Sands only looks at a single instance in time and is not concerned with whether there is a trend of the KPI getting better, worse, or is unchanged.

The Office Action points to page 8, lines 19-20 and page 10, line 28 to page 11, line 6 of Sands as allegedly teaching these features of the independent claims. The paragraphs in which these sections of Sands are provided are reproduced below:

Another representation of the same structure is shown in FIG 2, but highlighting the hierarchical structure of a business. The performance measured by each KPI is an accumulative measure of overall performance of the business. Thus, referring to FIG 3, for each KPI the actual output Z_i is monitored relative to the actual input X_i . A budget value B_i is calculated from the actual input X_i for each KPI. The difference between the budget value B_i and the actual output value Z_i is an indication of the efficiency.
(page 8, lines 13-20)

The method depicted in FIG 4 also provides for a global measure of efficiency G to be determined by calculating the difference between the summed total $B_{i.tot}$ of the individual budget outputs B_i and the summed total $W_{i.tot}$ of the converted actual outputs W_i . The global efficiency value G is compared to a threshold T which may be the same threshold as discussed above. If the value G is greater than the threshold T the stored deviation data is mined to identify the problem component or sub-component. Efficiency values G can be determined at each level within the business, depending on the level of management adopted.
(page 10, line 28 to page 11, line 6)

By the citing of these sections of Sands, it is Applicants' understanding that the Examiner is reading the actual output value Z_i in Sands to be equivalent to the "actual value" recited in independent claim 1, and the budget value B_i to be equivalent to the "target value" recited in independent claim 1. Based on such an interpretation, page 8, lines 13-20 teaches calculating a difference value based on a difference between the "actual value" and the "target value." However, for Sands to teach the feature of calculating another score by "comparing the calculated score and a previously calculated score for a previous comparison of a previous actual value to the target value, the previously calculated score being calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better, worse, or is unchanged" in claim 1, Sands would need to further teach comparing the difference value generated in Sands with previously calculated difference values for previous comparisons of the B_i to Z_i and then generating a score based on this comparison which is then used to

indicate whether a KPI is getting better, worse, or is unchanged. Nowhere in the cited sections of Sands, or anywhere else is there any teaching or technical rationale provided to do so.

To the contrary, section of Sands that is cited as allegedly teaching these features (pages 10-11 of Sands) merely describes calculating a global efficiency value G based on the totals of B_i and W_i for all of the KPIs. These are not B_i s or W_i s for previous comparisons being compared to current B_i s or W_i s or even current scores being compared to previous scores, but merely a summation of the B_i s and W_i s (where W_i is merely the normalized version of the B_i s so that a common unit is utilized, e.g., a common currency of dollars). Nowhere in this section or anywhere else in Sands is there any teaching to calculate another score by “comparing the calculated score and a previously calculated score for a previous comparison of a previous actual value to the target value, the previously calculated score being calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better, worse, or is unchanged,” as recited in claim 1, or the similar features found in the other independent claims.

In view of the above, Applicants respectfully submit that neither Thompson nor Sands, either alone or in combination, teach or render obvious the features of independent claims 1, 20, 27, 45, and 52. At least by virtue of their dependency on their respective independent claims, the alleged combination of Thompson and Sands further fails to teach or render obvious the features of dependent claims 7-9 and 33-35. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1, 7-9, 20, 27, 33-35, 45, and 52 under 35 U.S.C. § 103(a).

In addition, the alleged combination of Thompson and Sands further fails to teach or render obvious the specific features recited in dependent claims 7-9, 29, and 33-35. For example, with regard to claims 9 and 35, Thompson and Sands fail to teach or render obvious the features of the staging area containing value information for the KPIs and time information relating to one or more time periods to which the value information is applied; the loader having a function to determine which KPI is affected by a change in the value information; and the KPI store being capable of storing the value information in association with the time information in a relational cube having the time and indicator

dimensions, actual values, target values, and score values for the KPIs, and business metadata as a network of content of the metadata. There is not even a mention anywhere in Thompson or Sands of storing time information with value information for KPIs or storing the value information in association with time information in a relational cube as specified in these claims.

The Office Action alleges that these features are taught by Thompson in Figure 23 and at column 32, lines 39-49 which are reproduced below:

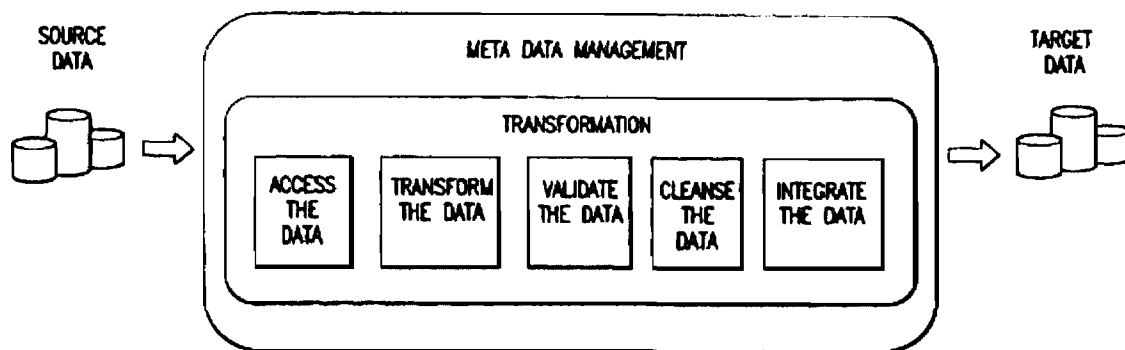


FIG.23

Meta Data is “data about data.” Meta Data provides a blueprint to users that detail the data. Meta Data also includes information regarding the common algorithms used in summarizing or processing data before it was integrated into the warehouse, the structure and formatting of the data to be published and actual volumes of data by major dimensions. Sagent and Microstrategy have their own Meta Data repositories therefore EIM provides a signal point of entry to ensure a seamless interface for end-users. In addition to the Meta Data provided by the third party tools, EIM provides two types of Meta Data; Technical and Business.

All these portions of Thompson teach is that the system can have technical and business metadata and that metadata is “data about data.” There is nothing in this section that teaches any of the specific features of claims 9 and 35. Other than using the term

“metadata,” this section of Thompson has nothing to do with claims 9 and 35. Applicants are not claiming to have invented “metadata” but rather, the specific set of features recited in claims 9 and 35 and merely citing a portion of the reference that uses the same term “metadata” does not provide a prima facie case of obviousness. Thus, Applicants respectfully submit that the alleged combination of references in fact fails to teach or render obvious the features of claims 9 and 35.

IV. Rejection under 35 U.S.C. § 103(a) Based on Thompson, Sands and Pokorny

The Office Action rejects claims 14-16, 22, 24-25, 40, 47, 49-50, and 55 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Thompson et al. (U.S. Patent No. 6,668,253) in view of Sands (WO 01/88769), and further in view of Pokorny (U.S. Patent Application No. 2003/0150908). This rejection is respectfully traversed.

This rejection is respectfully traversed for at least the same reasons as noted above with regard to the independent claims from which claims 14-16, 22, 24-25, 40, 47, 49-50, and 55 depend. That is, neither Thompson nor Sands, either alone or in combination, teach or render obvious the features of the independent claims. Moreover, Pokorny does not provide any teaching or technical rationale to implement the features of the claims that have been shown above to not be taught by the Thompson and Sands references. Thus, any alleged combination of Pokorny with Thompson and Sands would not render obvious the invention recited in the independent claims, and therefore, the dependent claims at least by virtue of their dependency.

Furthermore, the alleged combination of references does not in fact teach or render obvious the specific features of these dependent claims. For example, with regard to claims 15 and 40, the cited combination of references fails to teach that “the data guided monitoring function presents the performance information of a selected KPI together with related KPIs which are in a cause and effect relation with the selected KPI, and presents the performance information of related KPIs in a diagram to navigate the user through the related KPIs.” The Office Action alleges that these features are taught by Thompson at column 9, lines 1-31 which reads as follows:

Flexible Presentation

In some preferred embodiments, EIM provides multiple ways in which a user can access and view information. In addition to the Home Page defined above, reports and graphs can also be displayed in full screen mode (see FIG. 4 which shows an example of a full-screen mode with exception test view according to embodiments of this invention). This is the default representation for any report not displayed on a Home page.

While viewing a Home page, a user can choose to take any of the reports to full screen mode by clicking the window expansion icon located in the right corner of the reports title. Results can be viewed in either “Grid” or “Graph” mode. Users can switch from one to the other format simply by clicking the appropriate button on the toolbar.

Reports can be printed as they appear on the screen. The reports will print to the users default printer as identified by Windows™. Additionally, any reports results can be exported to a number of formats including Microsoft Excel™.

The properties of a report can be changed dynamically by the user by right clicking on the report element to be changed. Updating fonts, colors, titles, and legends is achieved through standard Windows dialog boxes. The reports can then be saved so that changes will not be lost (see Saving New or Modified Reports). Reports can also be sorted dynamically in this fashion as well. Right-clicking on a data column and selecting the sorting option will sort the data on the report, maintaining any formatting previously established for the report.

It is not at all clear how allowing a user to change fonts, colors, titles, and legends of a graph or grid report, or even sorting columns of data somehow teaches the very specific feature of a data guided monitoring function presenting *performance information of a selected KPI together with related KPIs which are in a cause and effect relation with the selected KPI*, or *presenting the performance information of related KPIs in a diagram to navigate the user through the related KPIs*. This section of Thompson, other than merely teaching reports in general, has nothing to do with the specific features of claims 15 and 40. Thus, the Office Action has failed to establish a prima facie case of obviousness with regard to the specific features of claims 15 and 40.

In addition, with regard to claims 16, 22, 24-25, 47, and 49-50, the Office Action merely states:

Regarding claims 16, 22, 24-25, 47, and 49-50, Thompson and Sands in view of Pokorny teaches the performance monitoring system as claimed in claim 15. Thompson further teaches the data guided

monitoring function has a function that presents the performance information for relevant KPIs sorted based on a selection type of scores, and/or presents the performance information for relevant KPIs filtered and sorted based on the scores of the KPIs (column/line 10/1-6).

Column 10, lines 1-6 of Thompson reads as follows:

EIM provides the ability to create user definable parameters for querying the data warehouse and filtering information. These filters provide the report with parameters to narrow the selection of data displayed. The user can be automatically prompted to provide values for these parameters or the filter can have pre-defined values established.

It is not at all clear how these three statements in Thompson somehow teach the very specific features of (1) “the data guided monitoring function has a function that presents the performance information for relevant KPIs sorted based on a selected type of scores, and presents the performance information for relevant KPIs filtered and sorted based on the scores of the KPIs,” as recited in claim 16; (2) “the information presentation unit has a function that presents multiple view metric types, and has a metric selector that allows the viewer to select a preferred view metric type to present sorted and filtered performance information,” as recited in claim 24 and similar feature in claim 49; or (3) “the loader has a function that calculates scores based on the received data and the performance information stored in the KPI store to indicate changes in the KPIs, and the viewer driven sorter and filter has a function that sorts and filters the performance information based on the scores calculated based on the changes in the KPIs,” as recited in claim 25 and similar feature in claim 50. Merely teaching filters does not provide any teaching or technical rational to implement the particular filters recited in these claims. Thus, again, the Office Action has failed to establish a prima facie case of obviousness.

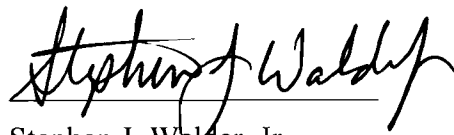
In view of the above, Applicants respectfully submit that neither Thompson, Sands, nor Pokorny, either alone or in combination, teaches or renders obvious the features of dependent claims 14-16, 22, 24-25, 40, 47, 49-50, and 55. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 14-16, 22, 24-25, 40, 47, 49-50, and 55 under 35 U.S.C. § 103(a).

V. **Conclusion**

It is respectfully urged that the subject application is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE: June 24, 2009

A handwritten signature in black ink, appearing to read "Stephen J. Walder, Jr.", written over a horizontal line.

Stephen J. Walder, Jr.

Reg. No. 41,534

WALDER INTELLECTUAL PROPERTY LAW, P.C.

17330 Preston Road, Suite 100B

Dallas, TX 75252

(972) 380-9475

ATTORNEY FOR APPLICANTS